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CMA No. 2676 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-07-2026

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THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 2676 of 2022

AND

CMP NO. 20950 OF 2022

The Branch Manager
The New India Assurance Co. Ltd. 39-C, Bye Pass
Road, Dharmapuri - 636 701.

..Appellant(s)

Vs

1. Manivanan
S/o. Govindhan, No. 1/259, Pulikkarai Village
and post, Palacode Taluk, Dharmapuri District.
2. M. Anand
S/o. Mariyappan, No. 1/256, Pulikkarai Village
and post, Palacode Taluk, Dharmapuri District.

..Respondent(s)

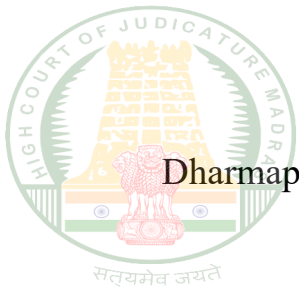
CMA No. 2676 of 2022

To set aside the award dated 28th day of February 2022 made in MCOP No.885 of 2019 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge) at Dharmapuri.

For Appellant(s): M/s. C. Ramesh Babu

Judgment

This Civil Miscellaneous Appeal has been filed against the award passed by the Motor Accident Claims Tribunal, Special Subordinate Judge,



Dharmapuri in MCOP No.885 of 2019 dated 28.02.2022.

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2. The 1st respondent is the claimant. The case of the 1st respondent is that on 01.08.2018, while he was riding a two wheeler belonging to the 2nd respondent on the Salem – Krishnagiri Road, an unknown Scorpio car was driven in a rash and negligent manner and dashed against the two wheeler. As a result of which, the claimant sustained grievous injuries to his right side shoulder, right leg and left ankle. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The Insurance company took a stand that the claimant was not the owner of the two wheeler and that he had borrowed the vehicle from the 2nd respondent. Since the accident had occurred while the claimant was riding the borrowed vehicle, the claim petition filed under Section 163A of the Motor Vehicles Act was not maintainable.

4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that the claim petition was maintainable and fixed the total compensation at Rs.1,52,436/- under various heads as follows :-



<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Just compensation	Rs.45,000/-
2.	Loss of earnings for 4 months	Rs.20,000/-
3.	Pain and sufferings	Rs.20,000/-
4.	Cost of Nourishment	Rs.15,000/-
5.	Cost of the attender	Rs.10,000/-
6.	Medical expenses	Rs.31,436/-
7.	Transport expenses	Rs.10,000/-
8.	Loss of clothing on accident	Rs.1,000/-
	Total	Rs.1,52,436/-

5. The above compensation was directed to be paid with interest at the rate of 7.5% per annum. Aggrieved by the same, the insurance company has filed the present appeal.

6. Heard Mr.C.Ramesh Babu, learned counsel for appellant. Though the respondents have been served with notice and their names have also been printed in the cause list, there is no representation either in person or through counsel.

7. This Court carefully considered the submissions made on the side of the appellant and the materials available on record.

8. This Court also carefully went through the award passed by the



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9. The main ground that was urged on the side of the appellant is that the policy marked as Ex.P3 clearly reveals that there was no personal accident coverage and that it covered only third party liability. Apart from that, it was contended that a claim petition filed under Section 163A of the Motor Vehicles Act against the owner of the vehicle from whom the claimant had borrowed the vehicle is not maintainable.

10. In the case in hand, the 1st respondent had borrowed the two wheeler from the 2nd respondent, who was the owner of the vehicle. The 1st respondent met with an accident and sustained injuries. By no stretch, the borrower of the vehicle can be treated as a third party. Exhibit P3 shows that there was no personal accident coverage and that it covered only the third party risk. Since the claimant cannot be considered to be a third party, there is no statutory coverage available under Section 147 of the Motor Vehicles Act.

11. In the absence of risk of the claimant neither being covered under the policy nor under the statute, the insurance company cannot be mulcted with any liability. The claim petition filed under Section 163A of the Act against the owner of the two wheeler from whom the claimant had borrowed the vehicle is also not sustainable. Useful reference can be made to the judgement of the Apex



Court in *[Ramkhiladi and another Vs. United India Insurance Company and another]* reported in 2020 1 CTC 443. Reference can also be made to the judgement of this Court in *[National Insurance Co. Ltd Puducherry Vs. Rani and others]* reported in 2020 2 CTC 703.

12. In the light of the above discussion, the award passed by the Motor Accident Claims Tribunal, Special Subordinate Judge, Dharmapuri in MCOP No.885 of 2019 dated 28.02.2022 by entertaining the claim petition under Section 163A of the Motor Vehicles Act and awarding compensation under the structured formula cannot be sustained. This Court finds sufficient ground to interfere with the award passed by the Tribunal and accordingly, the same is set-aside. The amount deposited by the Insurance company along with accrued interest shall be permitted to be withdrawn.

13. In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

13-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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N.ANAND VENKATESH J.

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